

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RECEIVED
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AVERY FORTNER

17CV4546
CV
2017 JUL 15 PM 2:45

Write the full name of each plaintiff.

(Include case number if one has been assigned)

-against-

COMPLAINT

(Prisoner)

N.Y.C.D.D.C.S. COMM. JOHN/JANE DOE;

E.M.T.C. WARDEN K. SMALLS; DEPUTY

WARDEN SECURITY BAILEY; HOUSING AREA

CAPTAIN PURDY.

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

AVERY**FORTNER**

First Name

Middle Initial

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

#3001700137

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

ERIC M. TAYLOR CENTER (E.M.T.C.)

Current Place of Detention

10-10 HAZEN ST

Institutional Address

XXXX EAST ELMHURST,**N.Y.****11370**

County, City

State

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☒ Other: **PAROLE VIOLATOR(V.O.P.)**

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

JOHN/JANE	DOE	
First Name	Last Name	Shield #
N.Y.C.D.O.C.S. COMMISSIONER		
Current Job Title (or other identifying information)		
75-20 ASTORIA BLVD.		
Current Work Address		
EAST ELMHURST,	N.Y.	11370
County, City	State	Zip Code

Defendant 2:

KISA	SMALLS	
First Name	Last Name	Shield #
E.M.T.C. WARDEN		
Current Job Title (or other identifying information)		
10-10 HAZEN ST.		
Current Work Address		
EAST ELMHURST,	N.Y.	11370
County, City	State	Zip Code

Defendant 3:

	BAILEY	
First Name	Last Name	Shield #
DEPUTY WARDEN SECURITY E.M.T.C.		
Current Job Title (or other identifying information)		
10-10 HAZEN ST.		
Current Work Address		
EAST ELMHURST,	N.Y.	11370
County, City	State	Zip Code

Defendant 4:

	PURDY	
First Name	Last Name	Shield #
E.M.T.C. 11 UPPER HOUSING AREA CAPTAIN		
Current Job Title (or other identifying information)		
10-10 HAZEN ST.		
Current Work Address		
EAST ELMHURST, N.Y.		11370
County, City	State	Zip Code

DEFENDANT NO: 5. C.O. PEREZ SHIELD #5752
ERIC M. TAYLOR CENTER
10-10 HAZEN ST.
EAST ELMHURST, N.Y. 11370

DEFENDANT NO: 5.

C.O. PEREZ
ERIC M. TAYLOR

V. STATEMENT OF CLAIM

Place(s) of occurrence: E.M.T.C. 11 UPPER HOUSING AREA SHOWER ROOM.

Date(s) of occurrence: JUNE 9, 2017

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

ON JUNE 9, 2017 AT APPROXIMATELY 5:30 P.M. WHILE PLAINTIFF
AVERY FORTNER, PRO SE, WAS TAKING A SHOWER IN THE ERIC M. TAYLOR
CENTER(E.M.T.C.), IN HOUSING AREA 11 UPPER, THE WATER CUT OFF,
AND AS PLAINTIFF AVERY FORTNER TURNED HIS BODY AROUND, HE SLIPPED,
AND FELL ON THE RUBBER MATLESS TILE SURFACE AND FELL ON HIS BACK
INJURING HIS LOWER BACK AND NECK AREA BELOW HIS HEAD HITTING THE
THE DIVIDER YOU WALK OVER TO EXIT THE SHOWER AREA. THE DEFENDANT
C.O.PEREZ BADGE #5752 just looked at p_laintiff HELPLEESLY ON
THE SHOWER FLOOR AND DID NOT EVEN INQUIRE IF PLAINTIFF WAS ALL
RIGHT AND/OR CONSCIOUS. ACTUALLY ANOTHER INMATE HAD TO INFORM THE
"A" OFFICER THAT THERE WAS A SLIP AND FALL ACCIDENT IN THE SHOWER
AND TO NOTIFY THE CLINIC FOR A MEDICAL EMERGENCY. THE DEFENDANT
HOUSING AREA CAPTAIN PURDY HAS A DUTY TO ENSURE THAT THE SHOWER AREA IS
ADORNED WITH SHOWER RUBBER MATS TO ENSURE THE SAFETY OF INMATES
IN HER HOUSING AREA AND FAILED TO DO SO, EVEN THOUGH THETRE WERE
NUMEROUS GRIEVANCES ABOUT THE SHOWER AREA HAVING NO RUBBER MATS
PRESIDENT WITH THE BOARD OF CORRECTIONS AND THE PRISONER'S RIGHTS
PROJECT TO NO AVAIL RENDERING THE ACT DELIBERATE INDIFFERENCE
AND CRUEL AND UNUSUAL PUNISHMENT THAT VIOLATE PLAINTIFF'S EIGHTH
AMENDMENT RIGHT TO BE FREE FROM SAID VIOLATIONS OF OUR UNITED
STATES CONSTITUTION. PLAINTIFF WAS THEN TAKEN TO THE MEDICAL CLINIC

FOR EVALUATION ON A GURNEY, AFTER BEING LEFT AND ABANDONED ON THE SHOWER FLOOR FOR TWENTY(20) MINUTES BY THE DEFENDANT C.O. PEREZ, WHO HAS AN OBLIGATION, AND DUTY UNDER THE MINIMUM STANDARDS OF THE BOARD OF CORRECTION TO BE AFFORDED PROMPT MEDICAL CARE, AND ATTENTION WHEN WARRANTED WITHOUT DELAY. TWENTY(20) MINUTES WITHOUT A DOUBT CONSTITUTES DELAY. THERE IS ALSO A PROCESS DUE TO THE PLAINTIFF UNDER THE CLAUSE IN THE FOURTEENTH AMENDMENT CALLED THE EQUAL PROTECTION CLAUSE THAT EVEN EXIST INSIDE OF ANY JAIL/PRISON THAT IS DUE WITHOUT RESTRAINT. ALL THE DEFENDANTS NAMED HEREIN HAVE

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

neck, middle, RIGHT SIDE; LOWER BACK; HEAD INJURY CAUSING MIGRAINE HEADACHES, NERVE DAMAGE TO SPINAL CORD; DIFFICULTY AMBULATING WITHOUT CANE REQUIRING PHYSICAL THERAPY; MAJOR DEPRESSION, AND ANXIETY; FEAR OF WALKING ON WET AND SLIPPERY SURFACES. EMOTIONAL STRESS, AND MENTAL ANGUISH DUE TO SLIP AND FALL ACCIDENT; UNABLE FOR EMPLOYMENT THAT REQUIRES STRENGTH AND MOBILITY.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

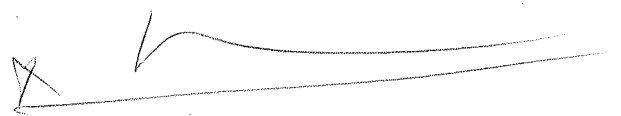
PLAINTIFF SEEKS PAIN, AND SUFFERING DAMAGES FROM EACH DEFENDANT IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY IN THE AMOUNT OF \$50,000.00. PLAINTIFF ALSO SEEKS EMOTIONAL STRESS AND MENTAL ANGUISH DAMAGES FROM EACH DEFENDANT IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY IN THE AMOUNT OF \$50,000.00, plaintiff finally seeks damages from each defendant in the SAME CAPACITY IN FOR PUNITIVE REASONS IN THE AMOUNT OF \$100,000.00 FOR A SUBTOTAL AMOUNT OF TWO POINT FIVE MILLION DOLLARS.

AN OBLIGATION AS ACTORS UNDER THE DEPARTMENT OF CORRECTION UNDER THE COLOR OF STATE LAW, WHICH AN IMPROMPTU DUTY TO RESPOND IS PRESENT IN ALL EMERGENCY MATTERS THAT AFFECT AN INMATES SAFETY AND CARE WITHOUT SHADOW, AND BLEMISH OF ANY DOUBT AS TO A SPECIFIC DUTY TO PERFORM, AND/OR CARRY OUT SPONTANEOUSLY. FOR THE DEFENDANTS THE COMMISSIONER JOHN/JANE DOE; E.M.T.C. WARDEN KISA SMALLS, AND DEPUTY WARDEN SECURITY BAILEY, THEY HAVE UNPRECEDENTED DUTIES AS SUPERVISORY OFFICIALS TO ALSO ENSURE THAT THERE ARE RULES; DIRECTIVES; POLICIES; AND GUIDELINES IN PLACE FOR THEIR SUBORDINATES TO FOLLOW DURING THEIR TRAINING OF DEFENDANTS LIKE CAPTAIN PURDY, AND C.O. PREZ WITH THE ABSOLUTE INSTRUCTIONS THAT ALLOW THESE DEFENDANTS TO DUSUADE FROM ENGAGING IN ACTS THAT DELAY EMERGENCY CARE, AND KEEPING, AND PRESERVING LIVING QUARTERS FOR INMATES THAT ARE ENVIRONMENTALLY SAFE WITH THE MATERIALS AND ITEMS THAT KEEP THESE INMATES SAFE IN ALL AREAS THAT ARE OCCUPIED BY INMATES FROM SLEEPING QUARTERS THAT EXTEND TO AND FROM THE SHOWER AREA AT ALL TIMES. FOR THE ENCLOSED CONSTITUTIONAL, AND HUMAN RIGHTS INDULGED IN THIS COMPLAINT, AND IN LIGHT OF THE FOREGOING FACTS, PLAINTIFF AVERY FORTNER, PRO SE, RESPECTFULLY PRAYS AND ASKS THAT THE COURT AND JUSTICES THEREOF DEEM THIS COMPLAINT FIT TO PROCEED UNDER THE UNITED STATES CONSTITUTION IN THE PURSUIT OF JUSTICE, IN THE INTEREST OF JUSTICE TO AVOID A MISCARRIAGE OF JUSTICE AND WHATEVER RELIEF THIS COURT DOES DEEM JUST AND PROPER.

DATED: JUNE 10, 2017

RESPECTFULLY SUBMITTED,

AVERY FORTNER, PLAINTIFF, PRO SE



moncler yeah yeah

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS


By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

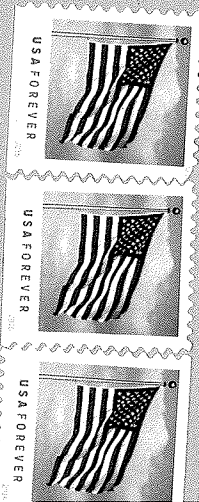
I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>JUNE 10, 2017</u>		
Dated		Plaintiff's Signature
<u>AVERY</u>		<u>FORTNER</u>
First Name	Middle Initial	Last Name
<u>10-10 HAZEN ST, E.M.T.C.</u>		
Prison Address		
<u>EAST ELMHURST</u>	<u>N.Y.</u>	<u>11370</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 6/12/17

MR. AVERY FORTNER #3001700137
10-10 HAZEN ST, E.M.T.C.
EAST ELMHURST, N.Y. 11370



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IN
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"CONFIDENTIAL LEGAL MAIL"

PRO SE INTAKE UNIT ROOM 2
UNITED STATES DISTRICT CO
SOUTHERN DISTRICT OF NEW
U.S. COURTHOUSE-500 PEARL
NEW YORK, N.Y. 10007

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